



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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TECHNICAL STAFF REPORT

Petition Accepted on August 7, 2007

Planning Board Meeting of November 1, 2007 (Advisory Authority Rules)

County Council Hearing to be scheduled

Case No./Petitioner: ZRA-92 – G. A. Mullinix and Associates

Request: Zoning Regulation Amendment to amend Section 117.4.B, Uses Permitted as a Matter of Right in the CCT (Community Center Transition) District to add the use category of “Banks, Savings and Loan Associations, Investment Companies, Credit Bureaus, Brokers, and Similar Financial Institutions” as a permitted use; and to amend Section 117.4.D.2., Minimum Structure and Use Setback, to eliminate any setback from an adjacent nonresidential district and to revise the setback from a public street right-of-way to establish a reduced 10 foot setback for parking uses.

Department of Planning and Zoning Recommendation:

DENIAL

I. DESCRIPTION OF PROPOSAL

The Petitioner proposes several amendments to the CCT District Section 117.4 in the Zoning Regulations. Each proposed amendment is generally described as follows:

1. The CCT District was established with the 2004 Comprehensive Zoning Plan as another option for a district allowing some relatively low-intensity nonresidential uses and one principal residential use to permit the creation of developments situated between low-density residential neighborhoods and commercial areas. The purpose statement for this district is “The CCT (Community Center Transition) District is established to permit community serving office, institutional, service and cultural facilities, as well as age-restricted adult housing. These uses serve the surrounding residential community and provide a transition between residential neighborhoods and retail activity centers.”

The types of nonresidential use categories chosen for inclusion as permitted uses are those that are often found either within or close to residential neighborhoods, and which often have relatively low levels of activity, including ambulatory health care facilities, child day care centers and nursery schools, day treatment or care facilities, funeral homes, nursing homes and residential care facilities, offices, religious facilities, and schools. The Petitioner proposes to add the use category of Banks, Savings and Loan Associations, Investment Companies, Credit Bureaus, Brokers, and Similar Financial Institutions (the Bank Use Category”) to this list of permitted uses.

I. DESCRIPTION OF PROPOSAL (continued)

2. For the purpose of allowing appropriate buffer areas for CCT District developments to serve as a transition between different uses, the structure and use setback requirements for the CCT District require a 50 foot setback from the RC, RR, R-ED, R-20, R-12, and R-SC Districts, and also require a 30 foot setback from any other residential or nonresidential district. The Petitioner proposes to revise the 30 foot setback requirement so that it would apply only to those residential districts other than the RC, RR, R-ED, R-20, R-12, and R-SC Districts, and as stated in the Supplement to Petition, "...thereby eliminating any setbacks from commercially zoned properties."
3. The CCT District also requires a 30 foot structure and use setback from any public street right-of-way, again to allow for an appropriate buffer along the front of a development. The Petitioner proposes an amendment to establish an exception to this 30 foot setback for parking uses, which would only have a setback requirement of 10 feet.

The subsections proposed to be amended and the amendment text is as shown on the attached Exhibit A (CAPITALS indicates text to be added; text in [[brackets]] indicates text to be deleted):

II. EXISTING REGULATIONS

The CCT District was created as a result of the 2004 Comprehensive Zoning Plan ("2004 CZP") process, in response to citizen suggestions for a transitional district that could allow age-restricted adult housing and some types of office and lower-intensity nonresidential uses and would have meaningful buffers, but would be far less intensive a district than the POR District in term of retail and other commercial types of uses.

This district was not part of the original regulation proposals, but was devised in the latter portion of the 2004 CZP process. Using the POR District as a template, uses found to be incompatible with the intended purpose of the transition district were purposely eliminated. In addition to the CCT District, the R-SI District was similarly created at this same time.

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

The proposed amendments would be applicable to all areas in the County that are zoned CCT, not merely the Petitioner's property.

There are seven areas of CCT District zoning in the County, totaling approximately 90.53 acres. In addition to the area along the north side of US 40 which includes the Petitioner's property, there is a fairly large CCT area at the southwest quadrant of MD 103 where it passes under I-95, two areas at the southwest quadrant of the MD 100 intersection with MD 103, an area on Martha Bush Drive at Church Road, a small area in Highland, and a small area to the southeast of the Snowden River Parkway intersection with MD 108.

III. BACKGROUND INFORMATION (continued)

B. Agency Comments

See attached comments on the proposal from the following agency:

1. State Highway Administration

The following agencies had no objections to the proposal:

1. Bureau of Environmental Health
2. Department of Fire and Rescue Services
3. Department of Inspections, Licenses and Permits

IV. EVALUATIONS AND CONCLUSIONS

A. Relation to the General Plan

As noted above, the CCT District was purposely designed to not include the Bank Use Category, along with other commercial uses specifically found to not be appropriate for this special transition district.

From the perspectives of intensity of use, parking, and overall activity, a bank is no different than most retail businesses, and in fact can be somewhat more intense, because most banks include drive-through windows which can make them a more car-intensive use than some retail stores. This is reasonably comparable to the difference there is between a fast food restaurant with a drive-through window and a storefront carry-out restaurant with no drive through.

Banks firms recognize that their operations fit in best alongside active retail commercial uses, and so typically locate within shopping centers and along commercial corridors as a result.

For this reason, the proposed amendments contradict the Community Conservation and Enhancement Policy No. 5.9 to “Allow for the appropriate size, location and purpose of commercial centers” in a number of ways. [Emphasis added.]

The Petitioner stresses a point that the CCT District is a commercial district, and therefore, why not treat it in a similar fashion to other commercial districts in terms of setbacks, for example. This misses the point of the CCT District, which is that it is not intended to be a district like any of the standard commercial districts, it is meant to be a transition district that is truly different.

Even if one were to pay no attention to the potential impacts of the proposed amendments on the number of CCT District areas scattered around the County and focus only on the one CCT area on US 40 which includes the Petitioner’s property, the amendments are clearly not in harmony with the goal of “No Extension of Commercial Strips”, which reaffirms “...the policy of past General Plans to not extend strip commercial development areas on major roads beyond their present limits.”

IV. EVALUATIONS AND CONCLUSIONS (continued)

A. Relation to the General Plan (continued)

An examination of the existing commercial corridor area of US 40 further to the east from the area of the Petitioner's property reveals that the Bank Use Category certainly is a component of the B-1 and B-2 zoned strip commercial development pattern of that area.

- # **The setback requirements of the CCT District were also purposely intended in order to achieve the amount of buffer space considered necessary to make it a true transition district, not just one similar to a standard commercial district. On this basis, the petition is contrary to the Community Conservation and Enhancement Policy No. 5.10 to "Enhance the design of commercial areas", including specifically the goal for heavily landscaped buffers along the perimeters of nonresidential developments and to "...offer an attractive streetscape."**

To reduce the 30 foot setback from the public street right-of-way to only ten feet would make the CCT District no different than any B-1 or B-2 property along US 40 or elsewhere, and would significantly diminish its purpose as a transition district.

If the Petitioner has a property that is especially affected by the setback requirements to a greater extent than all other CCT-zoned properties, then that is the reason there is a variance process. It is not prudent to change the intended CCT setback requirements for all CCT areas to meet the needs of one property.

B. Relation to the Zoning Regulations

- # **This proposal would diminish the intended, planned purpose of the CCT District as a distinct and limited transition district, and for this reason, the petition is considered to be contradictory to one important intent of the Zoning Regulations:**

"To protect the character, the social and economic stability of all parts of the County; to guide the orderly growth and development of the County, and to protect and conserve the value of land and structures appropriate to the various land use classes established by the General Plan for Howard County, and by these comprehensive zoning regulations." Maintaining the integrity of the intended differences between the zoning districts helps to achieve this intent.

- # **The Zoning Regulations already include a local, community-serving zoning district that allows the Bank Use Category as a permitted use, with no setback requirement from another commercial zoning district, and only a 10 foot setback requirement from a public street right-of-way; it is called the B-1 (Business: Local) District.**

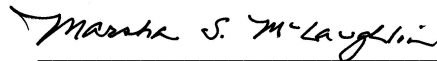
If the Petitioner believes that its property is unable to be used for any of the currently permitted use categories in the CCT District and is incorrectly zoned, the Petitioner does have the options of petitioning for a piecemeal Zoning Map Amendment, or waiting for the next Comprehensive Zoning Plan, in order to possibly change this property to the B-1 District.

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V. RECOMMENDATION *DENIAL*

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-92 as noted above, be DENIED.



Marsha S. McLaughlin, Director

10/16/07

Date

MM/JRL/jrl

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.

EXHIBIT A – ZRA 92
PETITIONER’S PROPOSED TEXT

Section 117.4.B.

B. Uses Permitted As A Matter Of Right

1. Age-restricted adult housing.
2. Ambulatory health care facilities, including pharmacies incidental to these uses.
3. Athletic fields, tennis clubs, athletic centers, health clubs and commercial or community swimming pools.
4. BANKS, SAVINGS AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES, CREDIT BUREAUS, BROKERS, AND SIMILAR FINANCIAL INSTITUTIONS.
- [[4]]5. Bio-medical laboratories.

Renumber the remainder of Subsection B. accordingly

Section 117.4.D.

D. Bulk Regulations

(Also see Section 128.A, Supplementary Bulk Regulations.)

1. Maximum Building Height:
 - a. Age-restricted adult apartments.....50 feet
 - b. All other uses.....40 feet
2. Minimum Structure or Use Setback:
 - a. From RC, RR, R-ED, R-20, R-12 and R-SC districts.....50 feet
 - b. From any other RESIDENTIAL zoning district.....30 feet
 - c. From public street right-of-way.....30 feet
EXCEPT FOR PARKING USES.....10 FEET
 - d. If a residential district is separated from the CCT district by a public street right-of-way, only the setback from the public street right-of-way shall apply.